

REMARKS/ARGUMENTS

By this Amendment, claim 55 is amended, claims 37, 56 and 57 are cancelled, and claims 58 - 62 are added. Claims 35, 36, 38 - 55 and 58 - 62 are pending in the application.

Applicant is grateful to the Examiner for his acceptance of the Request for Continued Examination. Favorable reconsideration is respectfully requested in view of the foregoing amendments and the following remarks.

The Examiner sets forth in paragraph 2 of the Office Action that Applicants' arguments with respect to claims 35 - 57 have been considered but are moot in view of the new grounds of rejection.

In paragraph 4, the Examiner rejects claims 35, 39, 44 - 48 and 54 - 57 under 35 U.S.C. 103(a) as being unpatentable over Fellenstein et al. (U.S. Patent No. 7,406,691B2) (Fellenstein), in view of Barsness et al. (U.S. Patent NO. 7,379,884 B2) (Barsness), and further in view of Gray et al. (U.S. Pub. No. 2005/0072618 A1) (Gray).

In paragraph 5, the Examiner further rejects claims 43 and 49 - 53 under 35 U.S.C. 103(a) as being unpatentable over Fellenstein et al. (U.S. Patent No. 7,406,691B2) (Fellenstein), in view of Barsness et al. (U.S. Patent NO. 7,379,884 B2) (Barsness), and Gray et al. (U.S. Pub. No. 2005/0072618 A1) (Gray), and further in view of Elleson et al. (U.S. Patent No. 6,459,682 B1) (Elleson).

In paragraph 6, the Examiner rejects claims 36 - 38 and 40 - 42 under 35 U.S.C. 103(a) as being unpatentable over Fellenstein et al. (U.S. Patent No. 7,406,691 B2) (Fellenstein), in view of Barsness et al. (U.S. Patent NO. 7,379,884 B2) (Barsness), and Gray et al. (U.S. Pub. No. 2005/0072618 A1) (Gray), and further in view of Sankaranarayan et al. (U.S. Patent No. 6,799,208 B1) (Sankaranarayan).

The Examiner sets forth that Sankaranarayan teaches the resource allocation process based on the received request from the application and available resources from the provider

(Col. 14, line 55 to Col. 15, line 54 and figure 6), the resource manager asks each resource provider identified in the configuration to determine whether it can allocate is resource to the activity (Col. 14 lines 60-67 and step 602 in figure 6), and the resource manager continues successively through each fallback configuration (Col. 17, lines 51-64) until finding a configuration that can be satisfied with the currently available resources or discovering that no fallback configuration can be satisfied (Col. 17, line 65 to Col. 18, line 17).

The Applicants submit, however, that the determinations made by the resource manager taught by Sankaranarayan are based on the amount of resources available and the priorities of the various activities. The determinations taught by Sankaranarayan are not based on a dollar value sent by the server nodes to the remote location.

Therefore, the Applicants' claim 55 recites a method for supporting an application workload using a resource at a remote location, the method including assigning a subset of a plurality of server nodes to execute the application workload, executing the application workload on the assigned subset of the plurality of server nodes, and monitoring execution of the application workload to determine whether a threshold of a performance requirement of a service level agreement specifying performance requirements for execution of the application workload is met. Claim 55 also recites, responsive to a determination that the threshold of the performance requirements is not being met, sending a request for at least one server node to the remote location wherein the request specifies a number of nodes requested, a time duration for which the requested nodes are needed, and a dollar value associated with the request. An acceptance of the request is received from the remote location in accordance with the dollar value.

Sankaranarayan does not teach or suggest sending a request to the remote location wherein the request specifies a dollar value, as recited in claim 55. Furthermore, it follows that Sankaranarayan does not teach or suggest receiving an acceptance of the request in accordance with the dollar value, as also recited in claim 55. Rather, Sankaranarayan teaches accepting or rejecting the offer based on, for example, the amount of resources available and the priorities of the various activities being performed by the remote location. For the same reasons claim 62 is patentable in view of Sankaranarayan. Furthermore, Sankaranarayan does not teach or suggest

the transmitting from the remote location to the local cluster an acceptance of the request in accordance with the dollar value required in claim 61.

For at least the reasons set forth above, it is respectfully submitted that the above-identified application is in condition for allowance. Favorable reconsideration and prompt allowance of the claims are respectfully requested.

Should the Examiner believe that anything further is desirable in order to place the application in even better condition for allowance, the Examiner is invited to contact Applicants' undersigned attorney at the telephone number listed below.

Please charge or credit our Account
No. 09-0460 as necessary to affect
entry and/or ensure consideration of
this submission.

Respectfully submitted,
CAESAR, RIVISE, BERNSTEIN,
COHEN & POKOTILOW, LTD.

By: Francis M. Lingult
Francis M. Lingult
Registration No. 32424
Customer No. 45726
(215) 567-2010
Attorneys for Applicants

May 22, 2009
FML:grb